



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

(801) 538-5340 telephone

(801) 359-3940 fax

(801) 538-7223 TTY

www.nr.utah.gov

Michael O. Leavitt
Governor

Robert L. Morgan
Executive Director

Lowell P. Braxton
Division Director

December 6, 2002

CERTIFIED MAIL

7099 3400 0016 8895 6405

Tim Kirschbaum, Environmental Engineer
Consolidation Coal Company
P.O. Box 566
Sesser, Illinois 62884

Re: Reassessment for State Violation No. N02-39-2-1, Consolidation Coal Company, Emery Deep Mine, C/015/015, Compliance File

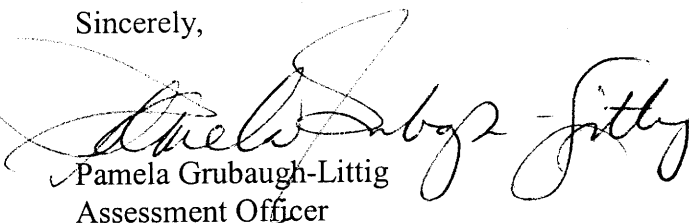
Dear Mr. Kirschbaum:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the reassessment of the above-noted violation for the above referenced violation. This violation was issued by Division Inspector, Stephen J. Demczak, on October 25, 2002. Rule R645-401-600 et. seq. has been utilized to formulate the penalty.

Please let us know if you still want to have the Assessment Conference you requested. If the assessment conference is not held, this **proposed penalty will become final, and the penalty will be due and payable within thirty (30) days of this reassessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,


Pamela Grubaugh-Littig
Assessment Officer

Enclosure

cc: OSM Compliance Report
Vickie Southwick, DOGM
Price Field Office

U:\COMPLIANCE\2002\N02-39-2-1\LTR_REASSESS.DOC

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

12/6/02, C/015/015-N02-39-2-1,

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Recipient's Name (Please Print Clearly) (to be completed by mailer)

TIM KIRSCHBAUM

Street, Apt. No., or PO Box No.

P.O. BOX 566

City, State, ZIP+4

SESCED II 628

PS Form 3800, February 2000

See Reverse for Instructions

5069 5688 9100 0056 6002

PROVIDE AN EXPLANATION OF POINTS:

Environmental Harm.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

Vehicles (one car and one truck) were parked on top of the undisturbed vegetation and topsoil that could inhibit future reclamation caused by a disturbance to soil compaction and vegetation.

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 13

PROVIDE AN EXPLANATION OF POINTS:

This action caused additional disturbance to soil compaction and vegetation.

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree

ASSIGN NEGLIGENCE POINTS 29

PROVIDE AN EXPLANATION OF POINTS:

Violation #N02-39-1-2 (1 of 2) was issued on September 12, 2002 to remove the trailer from the undisturbed area where topsoil and vegetation had not been removed (same location). The trailer was removed and the violation was terminated. On October 25, 2002, this violation was issued because vehicles were found on the same area that was supposed to be an undisturbed area where topsoil and vegetation had not been removed.

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10
(Permittee used diligence to abate the violation)
- Normal Compliance 0
(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Easy

ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS:

The violation was terminated on November 21, 2002. The abatement plan for reclamation of the undisturbed areas was sent to the Division on November 8, 2002. This was approved on November 15, 2002. The abatement work was completed on November 21, 2002.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N02-39-2-1

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>28</u>
III.	TOTAL NEGLIGENCE POINTS	<u>29</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>47</u>

TOTAL ASSESSED FINE \$ 880